



**Preliminary Small Business Economic Impact Statement
Proposed New WAC Chapter 170-296A (To Replace Current WAC Chapter 170-296)
Licensed Family Home Child Care Standards**

[The Department has filed this preliminary Small Business Economic Impact Statement (SBEIS) with the proposed new WAC chapter 170-296A as required by RCW 34.05.320. DEL welcomes input on the preliminary SBEIS. As appropriate or based on comments received, DEL may revise this analysis, and the Department will make a final SBEIS available to the public when the permanent rules are filed.]

The Washington State Department of Early Learning (DEL) is proposing a complete revision of the current Family Home Child Care licensing rules in Washington Administrative Code (WAC) 170-296. The proposed new rules are WAC chapter 170-296A "Licensed Family Home Child Care Standards." The current WAC 170-296 would be repealed. DEL has determined that the proposed rules are likely to impose "more than minor" costs on small businesses that must comply, and a Small Business Economic Impact Statement is required.¹

NAICS Code. Child care services in the provider's own home are included under code number 624410 under the North American Industry Classification System (NAICS). However, this NAICS code also encompasses child care centers, group homes, Head Start programs, preschools and babysitting services. Therefore, obtaining state or federal revenue or employment data specific to licensed family home child care for this impact statement is not feasible using NAICS number 624410.

Background

Statutory Authority. Under RCW [43.215.010](#)(1)(c), a family home child care (FHCC) subject to licensing by DEL is a "child care provider who regularly provides child day care and early learning services for not more than twelve children in the provider's home in the family living quarters." RCW [43.215.200](#) establishes the DEL Director's authority to establish minimum requirements for licensing child care agencies regulated under chapter [43.215](#) RCW, including FHCC. RCW 43.215.060 and 43.215.070(2)(c) provide DEL authority to adopt rules to implement chapter 43.215 RCW. In addition, RCW [43.43.832](#)(6) directs DEL to adopt rules for and investigate the background of anyone seeking a child care license, as well as employees, volunteers, persons living on the premises of a child care, and others having unsupervised access to children in care.

In 2006 the Legislature stated its objectives in creating DEL and adopting chapter 43.215 RCW, including to, "... safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care..." RCW

¹ A small business economic impact statement is prepared under chapter [19.85](#) RCW when a proposed Washington State agency rule may impose "more than minor" costs on businesses that must comply with the rule. A small business is one that is independently owned and employs 50 or fewer employees. "More than minor" is defined as cost of compliance with new or revised requirements greater than either 3/10 of 1 percent of annual business revenue, or 1/10 of 1 percent of annual payroll. Using the revenue calculation, 3/10 of 1 percent of the average annual FHCC licensee income (\$39,910) equals \$119.73.

[43.215.005](#)(4)(c). DEL rules establish standards for child care licensee and staff qualifications, supervision, training, safe spaces, food handling, cleanliness, program activities, nurturing, guidance and discipline, fire and emergency preparedness, medication management, and other aspects of providing a safe, healthy and nurturing child care and early learning environment.

Licensing Data. The Department licenses and monitors more than 7,470 child care centers, school age center programs and family home child cares in Washington state. In the state fiscal year ending June 30, 2010, there were 5,354 active FHCC licensees. In the previous fiscal year there were 5,536 active licenses. Child care is a dynamic industry. In each year, some licensed family home providers close for various reasons, and new individuals apply for FHCC licenses. The number of licensed family child care homes has declined in recent years. The current weakened economy and unemployment climate in Washington has reduced the number of families needing or able to afford out-of-home child care. Reduced access to state/federally subsidized child care has also affected the number of families seeking child care and likely has also depressed the numbers of active licensed child care providers.

FHCC Licensing. A full FHCC license is valid for three years. Roughly one-third of active licensees are completing their license renewal each year. Each child care license applicant and active licensee has an assigned DEL licensor. The licensor is responsible for: Processing new or renewal license applications; Completing portions of the background check process for each licensee and all individuals who are required to have a background check; Giving technical assistance to licensees; Following up on complaints about licensed homes or individuals providing unlicensed child care; Preparing and following up facility license compliance agreements; Preparing enforcement actions when appropriate and approved by the Department; Maintaining child care licensee files; and various other training and outreach activities.

FHCC Monitoring. DEL licensors monitor each licensed child care to verify compliance with state laws and DEL rules. A licensor completes an on-site monitoring visit before a FHCC receives an initial license, before the FHCC upgrades from an initial to a full license, and then about every 18 months thereafter. The licensor may visit more often if the licensee requests or needs technical assistance, or when the licensor must re-visit to follow up on facility licensing compliance agreements or probationary licenses issued for violation of the licensing rules.

Small Business Data. Every DEL-licensed FHCC meets the definition of a “small business” under RCW [19.85.020](#).² *[Note: There are no large FHCC businesses (more than 50 employees), so this SBEIS does not contain a comparison of impacts of small businesses compared to 10 percent of the large businesses who must comply with the rules. See RCW 19.85.040.]* Many FHCCs are operated by the licensee with no employees, or with members of the licensee’s household acting in the capacity of staff, either paid or unpaid. Some FHCC licensees – particularly those who are licensed to care for seven to twelve children, or who care for more than two children under age two - may employ paid staff in order to meet the required staff-to-child ratios in the rules.

In the 2008 DEL “Market Rate Survey”³ 1,189 FHCC providers were surveyed, about 19 percent of the total FHCC licensees at that time. Statewide, the average annual income for licensed FHCC providers statewide was \$39,910. The highest average annual FHCC income - \$51,149 – was in King County. The lowest annual licensee income was in Spokane County, \$26,428 per year. Average annual FHCC income in other counties in the state was more than Spokane County but less than in King County.

² Under RCW 19.85.020, a “small business” is independently owned and employs 50 or fewer employees (including businesses with no employees).

³ [Washington State 2008 Child Care Study](#). Prepared for DEL by Walter R. McDonald & Associates, Inc. (hereafter “2008 Market Rate Study”)

Fifty-two percent of FHCC licensees surveyed reported that child care was their main income source. For those providers, the average child care income was \$43,834 per year. For licensees who reported that child care was not their main income source, the average annual child care income was \$28,521.

The Market Rate Survey did not ask questions about other income sources or amounts that some FHCC licensees earned outside of providing licensed child care.

The survey also found that FHCC providers statewide charged the following average monthly private pay rates: Infants - \$721; Toddlers - \$626; Preschoolers - \$590; Kindergarteners - \$525; School-age children - \$449. The 2008 survey found private pay rates have decreased since 2006, but are slightly higher than in 2004. Sixty-five percent of FHCC licensees surveyed cared for children under various child care subsidy programs; these licensees averaged 2.7 subsidized children cared for in a typical week during the survey period. *[DEL, in conjunction with the Department of Social and Health Services, operates two of the state's largest child care subsidy programs: Working Connections Child Care and Seasonal Child Care]*

The survey did not ask questions about employment of staff or volunteers in licensed FHCC.

Rule Development Process

Negotiated Rule Making. Proposed WAC chapter 170-296A was developed using a “negotiated rule making” process under RCW 34.05.310 and [43.215.350](#).⁴ From March 2007 through December 2009, a 30-member Negotiated Rule Making Team (NRMT) met 29 times to review the current WAC 170-296 and recommend comprehensive changes. The NRMT included FHCC licensees, the Service Employees International Union (SEIU) Local 925 that represents FHCC licensees, DEL licensing and policy staff, Provider and Parent Advocates, and the statewide Child Care Resource and Referral (CCR&R) Network representatives.

In addition, three regional sub-teams of the NRMT met approximately 100 times during this period to review child care research, best practice and other states’ child care laws and rules to make evidence-based preliminary recommendations to the full NRMT. The NRMT voted on nearly 200 “in-concept” recommendations regarding the current FHCC rules. In some instances, the group recommended that requirements from the current WAC remain, with revised wording. (An early recommendation from the group was to re-write the entire WAC chapter 170-296 and eliminating the question-and-answer structure of the current rules.) Throughout the NRMT’s deliberations, the group relied on [Caring for Our Children – Health and Safety Standards, 2nd Edition](#), a child care guidebook published by the American Academy of Pediatrics, as the group’s primary reference source, although many other resources were used.

Using the NRMT’s in-concept recommendations, a drafting team comprised of one licensed FHCC provider and one DEL staff person wrote an initial draft of the new WAC chapter. A Rule Review Group comprised of four FHCC licensees, four DEL staff and a CCR&R representative refined the drafting team’s work. The process culminated in a 13-part NRMT preliminary working draft of the new FHCC WAC that was released for public input in January 2010. See this link for more information on the NRM process <http://www.del.wa.gov/laws/development/negotiated.aspx>.

Input on the NRMT Preliminary Working Draft. As portions of the draft rules were completed in 2009, nearly 40 forums statewide were held to gather preliminary input, mostly sponsored by the local or statewide Family Home Child Care Associations or by SEIU, with participation at several forums by DEL

⁴ Under RCW [43.215.350](#) DEL is required to engage in NRM for revisions to the family home child care rules.

staff and other NRMT members. After the complete NRMT working draft was released, several local FHCC associations sponsored provider work groups to review the draft and organize comments.

On March 27, 2010, DEL Director Bette Hyde met with the NRMT to respond to the team's work. Dr. Hyde said that after gathering input from public health officials and DEL staff, she could endorse about 95 percent of the NRMT recommendations either without change or with minor technical changes. The Director noted, however, that there were several of the NRMT's recommendations that DEL would need to revise into more robust requirements to promote a safe, healthy and nurturing child care and early learning environment. She said that DEL would gather more public and DEL staff input, and the department would be responsible for writing the next drafts of the FHCC rules.

DEL held eight public forums during April 2010 - in Everett, Seattle, Kent, Tumwater, Vancouver, Spokane, Pasco and Wenatchee - to take input on the NRMT's preliminary working draft. Comments were also received on the DEL website, by e-mail, fax and postal mail. In all, DEL received more than 300 pages of comments, which are summarized at this web site:

<http://www.del.wa.gov/publications/laws/docs/NRMTPublicComments.pdf>.

DEL Develops Proposed Rules. From May through August 2010, DEL reviewed the comments on the NRMT's working draft rules, and prepared a comprehensive revision of chapter 170-296 WAC. The department decided to:

- Develop the next public draft as the formal rule proposal under RCW 34.05.320;
- Do more research in appropriate areas, including but not limited to septic inspection and water testing costs, playground safety, lighting safety, child injuries including drowning, fire safety, minimum education and training, and healthy home environments.
- Reorganize the NRMT's working draft (which was grouped in 13 broad topic areas as reviewed by the NRMT, and was not necessarily intended as the order of the proposed or final WAC);
- Repeal the entire current WAC chapter 170-296; and replace it with completely new rules.
- Postpone proposing some changes recommended by the NRMT that would have required resources that are unavailable to DEL in the state's current budget climate, including: Requiring more extensive pre-service training prior to an applicant receiving a new FHCC license; Establishing new specialty licenses and required training for: infant/toddler-only child care, age 2 to 5-only care, and school-age-only care; and Creating a comprehensive Guidebook to accompany the new rules. DEL plans to continue work on these elements, and the department may propose additional rules as appropriate at a later date.

By early October 2010, DEL was ready to file proposed rules and begin formal public hearings. But at the request of SEIU and members of the statewide FHCC Association, the department delayed the proposal pending discussion of changes DEL made since the January 2010 NRMT working draft. DEL met with FHCC licensees, SEIU and CCR&R representatives from October 2010 to January 2011. From these meetings DEL agreed to make some additional changes to the rules, decided not to make certain changes requested by SEIU or providers, and agreed to continue researching some topics to assure the rules are evidence-based and are consistent with the current law.

As a result, DEL developed the rules in this proposal. Please see the DEL Family Home Child Care Rules web site at <http://www.del.wa.gov/laws/development/negotiated.aspx> for comparisons of the proposed rules to the current WAC 170-296.

Proposed Rule Changes That May Impose New Costs on Affected Small Businesses

1. Licensee Minimum Education.

Proposed WAC 170-296A-1725 would require prospective new FHCC licensees to have a high school diploma or equivalent education. Under proposed WAC 170-296A-1735, current licensees would need to meet this requirement within five years after the final rule is adopted. “Equivalent education is defined as:

- A. Passing the general educational development (GED) tests;
- B. Documentation of completing 12 years of primary and secondary education; or
- C. Completing 45 college credit hours in early childhood education (ECE).

Why the rule is needed. In December 2010, the Washington Professional Development Consortium (a group convened under [chapter 406, Laws of 2009](#), to recommend a cohesive system of early learning professional development) made as its recommendations to the Legislature in December 2010 on core competencies in child care and early learning:⁵ The group’s first recommendation was:

“A-1: Increase minimum educational requirements for early learning professionals:

“A-1(a): Licensed family child care providers will have high school completion or equivalent and 30 hours of approved pre-service training before becoming licensed.”

The consortium (whose advisory committee included FHCC licensees and SEIU staff) went on to say in support of this recommendation:

“Higher levels of education and training in the early learning and care professional will increase professionals’ knowledge, skills and competencies, which will improve their practices. Establishing clear educational requirements for positions in the early learning field will support alignment and consistency of hiring across the field and will professionalize the field of early learning and school-age care.”

The current rules do not require any minimum education for FHCC licensees. An estimated 16 percent of current licensees do not have a high school or equivalent education.⁶ Licensees having basic literacy skills - such as being able to read a medication label, first aid manual, or sanitizing cleanser warnings – are essential to ensuring the health and safety of children. These literacy skills are generally attained through completing primary and secondary education. Caring for Our Children [Standard 1.019](#) suggests that a family home child care licensee have an Associate’s degree in early childhood education or child development before obtaining a license. The proposed minimum education rules are lower than the CFOC standard, but are consistent with the state’s Professional Development Consortium recommendations .

Costs of Obtaining an Equivalent Education to a High School Diploma:

Option A - GED test: Passing the GED test gives the student a certificate that is considered comparable to obtaining a high school diploma. The test has five sections. Taking the test typically costs \$75 for all five test sections. Completing all five sections takes about six hours, and in many cases takes two days to complete all five sections. Many individuals also take the five tests individually on separate days. All Washington state community colleges and technical colleges, and some 4-year colleges, offer GED testing and preparation classes. At community colleges the cost of GED preparation classes is \$25 per college quarter. Some colleges offer a free pre-test to help assess the student’s GED readiness. Adult

⁵ December 2010. [Early Learning Professional Development System Report and Recommendations](#). Submitted to the Washington State Legislature by the Professional Development Consortium

⁶ 2008 Market Rate Survey.

basic education classes are also available for students who need more remedial education or for those who have limited English proficiency. The number and length of classes an individual may need would vary depend on his or her individual GED testing readiness. For this analysis, we have assumed that an individual choosing to take the GED tests would take at least one preparatory class. GED study guides are available for less than \$16 new (Amazon.com) or online guides are available for approximately \$30.

Limiting factors. GED tests must be taken at a college or other testing site and cannot be taken online. Most colleges offer GED testing only on weekdays. GED preparation classes are generally available weekdays and evenings, but may not be available on weekends. A current licensee taking the GED tests may incur costs of having replacement staff on duty while the licensee travels to a college or test site. If the tests are taken individually, the licensee may need to hire replacement staff up to five times. Testing is typically done in English – there are a limited number of sites that provide the GED tests in Spanish or French. Licensees with limited English proficiency may need to take Adult Education or English as a Second Language courses to attain skills needed to take the GED tests in English. These classes are available at \$25 per college quarter. The number and length of classes an individual may need would depend on his or her GED-readiness and cannot be estimated in this analysis.

Option B - Documenting 12 years of primary and secondary education: The cost would depend on how difficult it may be for the applicant or licensee to obtain these records. For some, the cost may be copying local school records and mailing, probably less than \$10. This task may be more difficult for those applicants or licensees who attended school in countries where such records may not be readily available or if they attended a school that is now closed. Circumstances may vary greatly, and no cost estimate is available for retrieving such records.

Option C – Obtaining 45 college credits:

Table 1. Sample of Five Washington Community College Tuition Rates (in-state resident rates):

	Seattle Central CC	Spokane CC	Yakima Valley CC	Clark College	Whatcom CC
Per credit for 1 to10 credits/qtr.	\$87 per credit	\$81 per credit	\$95 per credit	\$92.35 per credit	\$93 per credit
45 credits if taken singly	\$3,915	\$3,645	\$4,275	\$4,156	\$4,185
Per credit fee for 11 to 18 credits/qtr.	\$82 down to \$63/ per credit	\$76 down to \$59/per credit	\$90 down to \$70/per credit	\$88 down to \$67/ per credit	\$88 down to \$67/ per credit

Costs above do not include books and other required college fees that may vary significantly.

2. STARS 20-Hour Basic Training Required Prior to Obtaining a License.

Proposed WAC 170-296A-1775 would require a new license applicant to complete the 20-hour Basic STARS (State Training and Registry System) training before obtaining an initial license. A primary staff person must complete the STARS basic training before working unsupervised with children in care.

Why the rule is needed. The Professional Development Consortium's first recommendation to the Legislature in December 2010 stated:

“A-1: Increase minimum educational requirements for early learning professionals:

A-1(a): Licensed family child care providers will have high school completion or equivalent and 30 hours of approved pre-service training before becoming licensed.”

Currently the only pre-license training requirement is to complete First Aid/CPR and bloodborne pathogens training. The current FHCC rules allow the licensee to complete the STARS 20-hour basic child care training within six months after receiving an initial license. Yet some licensees have received up to the maximum of three initial license extensions without completing the STARS basic training, meaning those licensee may have been providing child care for nearly two years without any additional child care training. The STARS 20-hour basic course includes essential fundamentals of child growth and development, child guidance, health and safety that are a cornerstone of operating a successful licensed child care business.

CFOC [Standard 1.019](#) recommends that a prospective family home licensee have pre-service training in health management and knowledge of child development before obtaining a state child care license. The NRMT also recommended that a new license applicant complete DEL-approved pre-service training prior to obtaining an initial license.

Cost: Depending on the license applicant's location and whether training is taken in a classroom or by distance/online learning, the STARS 20-hour basic training may be free or cost up to \$190. The following examples of the 20-hour basic training costs are from DEL's MERIT "Find Training" website at <https://apps.del.wa.gov/merit/Public/TrainingSearch.aspx>.

- Seattle Child Care Resources: Online- \$150
- Bloom Training & Consulting: Classroom or correspondence course - \$150
- Patricia Fowler – Clarkston: Classroom - \$100
- Big Bend Community College – Royal City: Classroom – free.
- Tacoma/Pierce County CCR&R: Classroom - \$75
- Ashley Lind – Olympia: Classroom - \$150.
- Bellingham Technical College: Classroom - \$189.63
- Mickie Guberlet: Self-paced correspondence course - \$85
- Bellevue Community College: Online - \$178
- Educational Training Partners: Online - \$75
- Lisa Sandige: Online - \$95

Limiting factors: The current rules allow a licensed FHCC provider to start earning income before they must complete the 20-hour basic training. Under the proposed rule, a prospective licensee would need to pay for and complete the training before earning child care income. To a certain extent this requirement would pose a barrier to becoming a licensed FHCC. However, for most other occupations (including DEL-licensed child care centers), the owner or licensee must obtain required training hours, experience and/or certifications at their own expense prior to applying for and obtaining a license.

A limited number of scholarships of up to \$150 are available through the Washington Association for the Education of Young Children (WAEYC) to help pay for the 20-hour basic STARS training. WAEYC provides a reimbursement of the STARS tuition – the prospective FHCC licensee would need to pay for the 20-hour class up-front and provide proof of payment and of completing the training.

3. Non-Criminal Background Checks for Persons 13 To 16 Years Old.

The current and proposed rules require a criminal history background check for the licensee, staff and each individual residing in the licensee's home age 16 and older. Proposed WAC 170-296A-1225 would require a new non-criminal background check" for individuals age 13 through 16 who reside in the licensee's home, and for child care assistants and volunteers age 14 to 16.

Why the rule is needed. DEL is limited to conducting criminal background checks to individuals age 16 or older (see RCW 43.43.832(6)). Yet some individuals younger than 16 may have a history of incidents, charges or behaviors that raise questions about the individual's suitability to have access to children in the child care. The proposed rule would allow DEL to review non-criminal indexes or databases for any household members age 13 to 16, or assistants/volunteers age 14-16. DEL could review criminal convictions only if the juvenile had a conviction as an adult for a disqualifying crime listed in WAC 170-06-0120 (DEL Background Check Rules).

Cost. There would be no direct cost to the licensee for a basic non-criminal background check – DEL currently provides in-state background checks at no charge.⁷ The license applicant or licensee would need to spend an estimated one hour or less to complete a non-criminal background check form for each covered individual. However, if DEL found that a household member age 13 to 16 could not be cleared to have access to children in the child care, it could affect the application for a new license or result in DEL placing conditions on an existing licensee. The licensee could not hire or retain a volunteer or assistant age 14 to 16 if the individual could not be cleared by the non-criminal background check.

4. Private Septic System Inspection

This requirement was recommended by the NRMT. Proposed WAC 170-296A-1375 requires that if the licensee has an on-site septic system and the local public health jurisdiction does not require periodic septic system inspection, the licensee must have the system inspected before applying for a license and every three years after licensure. This proposed rule would:

- Apply only to a FHCC with a single-family home septic system;
- Apply in counties where the local health jurisdiction does not require periodic septic system inspection. Currently, this includes all counties in eastern Washington, and some counties in the Southwest part of the state. All counties surrounding Puget Sound and Hood Canal plus Clark, Grays Harbor and Lewis counties require periodic inspection and pumping of home septic systems at the homeowner's expense.
- Not apply to family child care homes connected to a municipal sewer system or community septic system. These homes would pay the costs of system inspection and maintenance in their sewer bills.

Why the rule is needed. Septic systems are a source of coliform bacteria, nitrates and other sewage contaminants. A failing or malfunctioning septic system may threaten groundwater quality, children may be exposed to harmful above-ground discharges, or a failing system may cause toilets or sinks to back up into the home. Septic drain fields are typically covered by grass fields or lawns that may double as outdoor play areas.

Cost: in counties where the rule applies, the license applicant or licensee must have a qualified septic system inspector inspect the system, and complete system maintenance or pumping as the inspection requires. Usually the local health jurisdiction certifies professional septic inspectors. Some counties will certify the homeowner to self-inspect after he or she completes a septic system inspection class. A professional septic system inspection typically costs \$250 to \$500; the higher cost applying if the septic tank needs to be pumped for the inspection. A FHCC licensee who inspects his or her own system

⁷ At the time this SBEIS was prepared, the 2011 Legislature was considering bills to charge fees for background checks.

would still need to pay for septic tank pumping every two to five years depending on the tank size and the home's septic usage.

5. Well Water Testing

This requirement was recommended by the NRMT. Proposed WAC 170-296A-1400 would require a FHCC license applicant or licensee to have their water tested for coliform bacteria and nitrates only if:

- The licensed home is served by a private well and water system located on the licensee's premises, and
- The local public health jurisdiction does not require periodic water testing. Currently this proposed rule would apply in all counties except Island, San Juan and Whatcom. These three counties require periodic wellwater testing at the homeowner's expense.

A license applicant or licensee would need to have their water tested within three months before submitting an initial license application, and every three years afterward. The test must indicate that the water is "safe" by state Department of Health (DOH) standards (no presence of coliform bacteria; 10 milligrams of nitrate or less per liter of water).⁸

Why the rule is needed. The presence of coliform bacteria or unsafe levels of nitrates in drinking water is a sign of likely fecal contamination of the well or water system. Unsafe levels of nitrates reduce the blood's ability to carry oxygen through the body, especially in children. Not all coliform bacteria are dangerous, but the presence of coliform bacteria is an indicator of unsafe water conditions. The proposed rules require the licensee to serve safe water to children in care. DOH and local public health jurisdictions regulate the installation of new drinking water wells. DOH does not require periodic water testing for single-family well water systems but recommends annual testing. Public and group water systems are tested often, with testing costs normally included as part of the homeowner's water bill.

Costs. Separate tests for coliform bacteria or nitrates cost between \$20 and \$30 each. Combined tests may be done at a cost of \$25 to \$45. The homeowner typically takes a water sample from a faucet in the home, using a bottle and instructions supplied by the local public health department or a private testing lab. The homeowner then mails the water sample or may deliver it to the local health department. Some local health departments conduct the water tests in-house; in other counties the licensee would need to send the water sample to a private testing lab. If coliform bacteria or unsafe levels of nitrates are found, the proposed rules lists several actions a licensee must take to protect the health of children in care.

6. Lifeguard or Staff With Lifeguard Training Required When Swimming Pools Are in Use.

This requirement was recommended by the NRMT. Proposed WAC 170-296A-5200 would require that when a swimming pool on the licensed premises is in use by children in care, the licensee must have one person at the pool with lifeguard training.

Why the rule is needed. Drowning is the leading cause of injury death for children age 1 to 4, and the third leading cause of injury death for children age 5 to 9.⁹ The U.S. Centers for Disease Control and Prevention also notes that for every child who drowns, another four children are treated in emergency rooms for non-fatal near-drowning injuries. Near-drowning incidents can result in long-term brain

⁸ June 2010, Questions and Answers – Nitrate in Drinking Water. Washington State Department of Health

⁹ 2007, [10 Leading Causes of Injury Deaths by Age Group](#). U.S. Centers for Disease Control and Prevention.

injury including learning disabilities, memory problems, or permanent functional losses.¹⁰ In a 2007 DOH report on drowning deaths in Washington state, about 25 percent of total drowning deaths in Washington State occurred in a bathtub, hot tub, swimming pool or wading pool; half of drowning deaths of children 1 to 4 years old occurred in these types of tubs or pools. Most of the 2007 swimming pool deaths in the state were children 1 to 4 years old. DOH cited inadequate supervision as a leading factor in 68 percent of the drowning deaths of children under age 5.¹¹

Cost. To meet the requirement in the proposed rule, the licensee may hire a trained lifeguard for an estimated \$15 to \$20 per hour through the local American Red Cross chapter or through some city or county parks and recreation departments. The licensee, staff person or household member could obtain lifeguard training classes and certification from most Red Cross chapters for about \$150. An alternative to the cost of having or hiring a lifeguard is not allowing children in care to have access to the swimming pool.

No estimates are available of the number of current FHCC licensees who have a swimming pool and who use it with children in care. Regardless of whether children in care use the swimming pool, the current and proposed rules require that if the licensee has a swimming pool, it must be surrounded with a minimum 5-foot-high fence with locked gates.

7. Door Alarms

This requirement was recommended by the NRMT. Proposed WAC 170-296A-4400 and 5175 would require the licensee to install a device on exterior doors that are not locked during operating hours, and any door that opens to a wading or swimming pool area to alert staff when the door is opened.

Why the rule is needed. See the notes in section 6 above on child drowning. Children are known to have left licensed FHCC homes and premises when not adequately supervised. This had led to at least one child drowning death in Washington state and other cases where children were found wandering unattended off the FHCC premises. Installing a device to alert the licensee or staff when a door is opened is expected to reduce the risk of children in care leaving a FHCC unnoticed.

Cost. Various types of effective door alarms are available, from simple bells/chimes, to battery-powered units that sound when the electric contact is interrupted by opening the door costing \$4.15 to \$6.50 each (Improvements online catalog, Lowes, Ace Hardware), to commercial grade infrared motion detector systems costing \$69 to \$145 per door (EZtone Chime online). A bell/chime and bracket is estimated to cost the same or less than a battery-powered alarm. For the purposes of this analysis, it is assumed that the typical licensee would need to place an “alarm” device on three doors that open to the exterior of the FHCC.

8. Tamper-resistant outlet covers and outlets

Proposed WAC 170-296A-4350 requires: Tamper resistant outlet covers or outlets be used in the licensed space; Tamper resistant ground fault circuit interrupter (GFCI) outlet covers or outlets be used near sinks or tubs, or That the outlet be made inaccessible to children.

Why the rule is needed. Electrical outlets are a significant source of injury to young children, capable of causing electrical shock, burns, and more serious injury or death. The U.S Consumer Product Safety

¹⁰ Not dated. Unintentional Drowning: Fact Sheet. U.S. Centers for Disease Control and Prevention.

¹¹ February 2007. [Childhood Drowning Deaths in Washington State](#). Washington State Department of Health.

Commission estimates that one third of emergency room visits for electrical shock injuries are for young children who have inserted metal objects into electrical outlets ¹²

Cost: Costs vary significantly for standard indoor tamper resistant outlet covers:

A. Tamper-resistant outlet covers. These covers may be used by removing the existing outlet cover and mounting the tamper-resistant cover in its place, usually with a single screw. [These covers may be installed by the homeowner without special electrical knowledge, although power to the outlet should be turned off for safety.] An electrical plug is inserted part way into the outlet, then the plug must be moved (slid) sideways for the plug to be fully inserted. When not in use, the cover prevents objects from being inserted into an active outlet. Styles vary, from utility covers costing \$0.97 each (Lowes), to decorative outlet covers costing \$4.95 each (Amazon.com). For this analysis, ten tamper-resistant outlet covers could be installed by the licensee for between \$9.70 to \$49.50 plus tax.

B. Tamper resistant outlets. This type of wired-in outlet is required in new home construction and home renovations. The outlet has an internal spring device that prevents objects from being inserted other than an electrical plug. Prices range from \$0.97 each (Sears) for standard outlets, up to \$4 each (Amazon.com) for decorative types. Tamper-resistant ground fault circuit interrupter (GFCI) outlets, used near sinks, tubs and in kitchens, range from \$11.72 to \$29.99 each (both Sears). Installation by a qualified electrician is recommended. Electrician rates may run \$30 per hour to nearly \$75 per hour and may not include travel. For this analysis, a rate of \$60 an hour and two hours to replace ten regular outlets and four GFCI outlets with tamper-resistant outlets is assumed. Total estimated cost, including outlets: \$177 to \$280.

9. On-going training (continuing education)

Proposed WAC 170-296A-1800 requires the licensee and primary staff persons to complete 30 hours of ongoing training every three years. Ten hours of annual ongoing training was required prior to 2004, but was inadvertently left out of the 2004 (current) FHCC rules. The NRMT recommended reinstating the on-going training requirement, but allowing the licensee to complete the 30 hours anytime over the three-year span of the license.

Why the rule is needed. Ongoing training is important to help child care professionals maintain and develop their child development knowledge and skills, and is recommended by Caring for Our Children, the National Family Home Child Care Association, child care specialists and other national child development and early learning organizations.

Cost. There is a wide variety of on-going training available to child care professionals in classroom, online or hybrid settings. Training costs range from zero up to \$55 for ten hours of training. See the DEL's MERIT "Find Training" website at <https://apps.del.wa.gov/merit/> for available courses and costs. Limited scholarships may be available from WAEYC or other resources, usually on a reimbursement basis after the individual completes a training.

10. Annual Chimney Inspection

Proposed WAC 170-296A-2650 requires a licensee who has a woodstove, fireplace or similar device to have the device inspected by a qualified chimney, fireplace or woodstove specialist annually.

¹² Not dated. [Electrical Receptacle Outlets – CSPC Document #524](#). U.S. Consumer Product Safety Commission

Why the rule is needed. Fire in homes is a leading cause of child death in Washington State. Many fires start when a fireplace or woodstove has not been properly maintained and excessive creosote in the chimney or flue ignites. Chimneys and flues should also be checked for cracks or leaks where smoke or carbon monoxide may enter the home, which the homeowner may not have the training to detect. The State Fire Marshal recommends annual inspection by a qualified chimney specialist.¹³

Cost. A chimney inspection typically costs between \$50 and \$100, with additional charges possible if cleaning or maintenance is required. The licensee or homeowner may buy or rent tools to clean the chimney or flue themselves.

11. Ground cover under swings.

The current rules require ground cover under outdoor climbing/play equipment to help reduce injury from children falling. Proposed WAC 170-296A-5075 would also require groundcover under and around swing sets. The required groundcover area would be six feet beyond the farthest arc of the swing seat in both directions. For example, for a swing seat that swings six feet out to its farthest point, ground cover would need to be placed 12 feet out both directions that the swing extends. (The CPSC recommends that groundcover in front and back of swings be twice the height of the swing's top bar,¹⁴ this would generally be a larger area than the proposed rule requires.) Typical types of ground cover include pea gravel, engineered playground wood chips or ground/shredded rubber mulch. Under the proposed rule, grass would not be an acceptable surface under swings.

Why the rule is needed. Injuries related to outdoor play equipment are a significant safety concern. The CPSC estimates that there are more than 200,000 playground injuries each year associated with playground equipment. A 2001 CPSC study¹⁵ of playground-related emergency room visits over a 12-month period of children under age two only found that:

- There were 8,250 reported playground related emergency room visits
- 30 percent of the injuries involved fractures, sprains or strains
- 53 percent involved head injuries, and 19 percent of head injuries involved fractures, concussions or internal injuries
- 33 percent of the injuries involved home-use equipment (26 percent were unspecified as home or public equipment)
- The most common injuries were falls (50 percent), and colliding with or being struck by playground equipment second most common (22 percent).
- **Swings and swing set injuries were one-third (820 out of 2,730 injuries) of all home playground equipment injuries, second only to slides (1,050 injuries).**

The CPSC report noted that, "Overall more injuries occurred where a grass surface was present (under or around play equipment) than any other type of surfacing... Grass was the most common surfacing associated with the home use equipment-related injuries (45 percent)."

¹³ August 2006. [Home Heating: Prevent Fires Due to Home Heating](#). Washington State Fire Marshal publication.

¹⁴ 2005. [Outdoor Home Playground Safety Handbook](#). U.S. Consumer Product Safety Commission.

¹⁵ 2002, [Special Study: Injuries and Deaths Involving Children Under Age 2 Associated with Playground Equipment](#). U.S. Consumer Product Safety Commission Directorate of Epidemiology

In a similar 2000 CPSC study of playground injuries to children birth to age fifteen, 67 percent of home playground equipment injuries involved swings.¹⁶ In the report said of 128 playground deaths reported in the study year, 70 percent (90 child deaths) occurred in a home setting.

In both CPSC studies, three percent of the playground equipment-related injuries occurred in home child care settings.

A 2001-2008 CPSC study found that swing injuries to children were the highest (22 percent) number of reported emergency room treated injuries involving playground equipment, out of 2,691 injuries studied.¹⁷ The same study found 44 percent of playground equipment injuries occurred in home settings (“day care” in this study referred to child care centers; no data was apparent that referred specifically to home child care settings).

The negotiated rule making team (NRMT) recommended that grass be allowed under swings as ground cover, citing a recommendation from an outdoor play advisor who addressed the group. However, in several CPSC publications and the Outdoor Home Playground Safety Handbook, the CSPC states that grass is not an adequate protective surface under playground equipment. [*“Overall more injuries occurred where a grass surface was present than any other type of surfacing... Grass was the most common surfacing associated with the home use equipment-related injuries (45 percent).”*¹⁸] The grass area under the swing may easily become dry or compacted, providing little or no impact fall-absorbing protection. An installed ground cover of adequate depth provides greater fall protection for children in child care settings.

Other alternatives. A FHCC licensee is not required to have a swing set. A licensee with a swing may also choose to make the it unusable or inaccessible during child care hours. In these cases there would be no cost of complying with this proposed rule.

Cost and availability. All costs below assume that the FHCC licensee has a swing set and chooses to use it with children in care. Costs assume:

- An 8-foot long and 7-foot high swing, with a swing seat arch of six feet front and back (12 feet total). Ground cover extends 6 feet from furthest arc front and back, the required coverage area for this swing would be 192 square feet (8 x 24). Actual swings sets may be smaller or larger.
- Except for rubber mulch purchased by the bag, ground cover materials prices are as-delivered, but not installed, which may be done by the licensee. Some pea gravel or wood chip suppliers may charge for hauling materials outside the supplier’s local area.

¹⁶ 2001, [Special Study: Injuries and Deaths Associated with Children’s Playground Equipment](#). U.S. CPSC. Directorate of Epidemiology.

¹⁷ 2009. [Injuries and Investigated Deaths Associated with Playground Equipment, 2001-2008](#). U.S. CPSC.

¹⁸ 2002, [Special Study: Injuries and Deaths Involving Children Under Age 2 Associated with Playground Equipment](#). U.S. Consumer Product Safety Commission Directorate of Epidemiology

- Costs do not include digging out existing soil in the swing area, which could vary widely depending on the soil conditions and source of labor (free labor to hiring a contractor and/or renting excavating equipment).
- Taxes are not included.
- DEL checked prices from at least two suppliers for each type of ground cover product in each of the department's three service areas. Local prices may vary.

A. Pea gravel (3/8 inch) is available from many soil, construction or landscape materials providers at \$15.75 to \$33.95 per cubic yard delivered, with a 5-yard minimum order in most areas. It would take up to six cubic yards to fill 196 square feet to a depth of 9 inches, at an estimated cost of \$95 to \$204.

B. Engineered playground wood chips are available from selected local landscape material suppliers or outdoor playground equipment retailers, at a cost of \$31 to \$55 per cubic yard delivered, typically with a five-yard minimum order (One supplier priced chips at \$16.25, but with a 20-yard minimum order). It would take up to six cubic yards to fill 196 square feet to a depth of 9 inches, at an estimated cost of \$186 to \$330.

C. Ground/shredded rubber mulch is available online or at selected retail outlets. Prices range from \$35 for a 30-pound bag (66.7 bags/ton), to \$850 per ton delivered (Costco.com). It would take nearly one ton of rubber mulch to create a 192 square foot area six inches deep, costing an estimated \$850 if purchased in bulk or up to \$2,300 in 30-pound bags.

11. Food handler permit.

Proposed WAC 170-296A-7675 would require a FHCC license applicant to obtain a \$10 state Food Handler Permit (Food Worker Card) before being licensed. Current licensees would need to obtain a permit within one year after the final rules are effective. If the licensee is not present, one other staff person with a food handler permit must be present if food is being prepared or served to children in care.

Why a rule is needed. The NRMT recommended that FHCC licensee's and staff must follow the state food workers manual (DOH [Food and Beverage Workers Manual](#)) when preparing and serving food. However, drafting such a rule would be subject to interpretation, and DEL licensors may need to observe the licensee in a variety of food preparation and serving examples to assure that the licensee is following all of the manual's requirements.

Instead, requiring the licensee obtain a state Food Handler Permit assures that the licensee is adequately familiar with food handling principles and methods to pass the state test required to obtain the permit. Permit applicants must attend a 60 to 90 minute class offered by the local public health department, with the test typically taken as part of the class.

Cost. A state Food Handler Permit/Card costs \$10. The first permit/card is good for two years, and the next renewals are due every three years. By the third year, the annualized permit/card cost is \$3.33 per year.

Limiting factors: Few. Many public health departments offer food handler permit classes in multiple locations and times, and some offer the classes in the evenings. Study guides and the state Food and Beverage Workers Manual are available free. Classes are offered in several languages in most counties.

Efforts to Mitigate (Reduce) Costs of the Proposed Rules

RCW 19.85.030 requires DEL, where legal and feasible to meet the stated objectives of the statute upon which the rule is based, to reduce or mitigate the impact of costs imposed by the proposed rules on small businesses. The new or increased costs described in this SBEIS are directly or indirectly related to protecting the health and safety of children in licensed family home child care. RCW 43.215.005(4) states the Legislature's objectives in establishing DEL, including: *"(c) To safeguard and promote the health, safety and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care."*

DEL is proposing the following to offset costs of complying with the proposed rules:

- A. WAC 170-296A-1725 – Minimum Education. DEL plans to develop resources to help current licensees who do not have a high school education meet the requirements of this rule by 2016.
- B. WAC 170-296A-1550 - Reducing paperwork involved in the license renewal process. Under current rules, the licensee submits nearly identical material for a license renewal as for an initial license. The proposed WAC 170-296A-1550 focuses on items or circumstances that have changed since the previous license review. This change is expected to reduce the amount of duplicated paperwork and allow the licensee and licensor to focus on changes in the child care program, or technical assistance the licensee may wish to have from DEL.
- C. WAC 170-296A-5700 - Clarifying the maximum capacity allowed in a licensed family child care home. The current rule is confusing for licensees and DEL licensors, and may hamper the licensee from achieving the highest capacity (the maximum number of children allowed for the licensee's staffing, experience or space) she or he may be eligible to receive, which affects the licensee's earning capacity.
- D. Forms and Policies. DEL plans to update or create several templates of forms and policies required in the proposed rules, so that licensees will not need to create their own documents.
- E. Generally, the proposed rules are less proscriptive than the current rules, allowing the licensee more options for achieving the rule requirement.
- F. Streamlining the Fingerprint Process. In February 2011, DEL began implementing electronic fingerprinting for individuals in child care who are required to be fingerprinted by law as part of

their background check. Manual ink-and-roll fingerprint errors (caused by unclear fingerprints that cannot be read by the FBI) have sometimes delayed background checks for months, creating frustration both for child care providers and DEL. The new electronic fingerprint system has a very low error rate, and costs of fingerprinting have been reduced.

DEL is also researching the following processes that are expected to reduce costs for child care licensees:

- G. DEL is considering “non-expiring licensing,” a more streamlined method for the licensee to maintain an ongoing license. This process could involve even less paperwork for the licensee than required under proposed WAC 170-296A-1550. Portions of a continuing licensing process may be done by rule, but other aspects may require statutory changes. As of this date this SBEIS was drafted, a bill was in process in the 2011 Legislature to create a non-expiring child care license process.
- H. DEL is also considering “portable certification” for child care staff. Current law and rules tie the background check for child care staff to the facility that the staff person is working in. Each time a staff person changes child care employers, the new employer must complete new background check paperwork for the individual and a new background check is done. Portable certification could allow the background check (and training history) to travel with the staff person. DEL is researching the technology and other resources needed to make portable certification available, but current resources limit DEL’s ability to implement such a system. As of the date this SBEIS was being prepared, a bill to create a portable certification process was being considered by the 2011 Legislature.

Impact of the Proposed Rules on Job Creation or Loss – RCW 19.85.040

New costs of complying with the proposed rules are summarized to provide a basis for determining whether compliance will have an impact on small business job creation or loss.

One-time Costs: New one-time costs imposed by the proposed rules on small businesses are estimated to range from \$150 to as much as \$7,440. Actual costs to a new or current licensee will depend on individual factors (e.g., whether a new or current licensee does or does not have a high school diploma), and individual choices (e.g., whether a new or current licensee plans to take the GED test or seek college credits to meet the minimum education requirement; whether to allow children in care to use a swing in the licensed outdoor space; etc.).

Table 2. New One-time Costs Imposed by the Proposed Rules (Cost are NOT cumulative):

	Estimated low-end cost	Estimated high-end cost	Notes
Minimum Education – New or current Licensee with a HS diploma, GED or 12 years education	\$0	\$20	High end represents cost to obtain proof of diploma, GED or education years within the U.S.
Minimum Education - New Licensees who do not have a HS diploma	\$100	\$ 4,275	Low end is the cost of completing the 5 GED tests and one prep class; High end is cost of completing 45 college credits
Minimum Education – Existing	\$100	\$4,275	Low end is the cost of completing

Licensees who do not have a HS diploma. Applies in 2016			the GED tests and one prep class; High end is the cost of completing 45 college credits individually
20-hour STARS basic training pre-license	\$90	\$190	Required for new licensees only. Some scholarships are available.
Door "alarm" device (assumes installation on up to 3 doors)	\$12.50 (bell, chime or battery-powered alarm)	\$435 (infrared door alarm)	
Tamper-resistant outlet covers – Standard, owner installed	\$10	\$50	Based on replacing ten covers
Tamper-resistant outlet covers – GFCI type, owner installed	\$47	\$120	Based on replacing four covers
Tamper resistant outlets – standard and GFCI, professionally installed.	\$188	\$280	Based on replacing 10 standard and 4 GFCI outlets, including electrician labor
Ground cover under swings.	\$0 (no swing or licensee chooses not to allow use of the swing)	\$2,300 (Shredded rubber mulch, 6 inches deep)	Materials only based on swing 8 ft long with 6 foot swing arc front/back

Ongoing Costs: The new on-going costs imposed by the proposed rule on small businesses, converted to annualized costs, are estimated to range from \$10 to \$544. On-going training and food handler permits are the only new on-going costs that every new or current FHCC licensee would incur. Other costs noted will be incurred only if specific conditions exist on the FHCC licensee's premises. Costs of on-going training will vary by the licensee's choice and/or availability and cost of training selected.

Table 3. New On-going Costs Imposed by the Proposed Rules (Costs are NOT cumulative):

	Initial cost of compliance (pre-license)	High-end or Annualized cost of continued compliance	Notes
Septic system inspection and maintenance ¹⁹	\$250 to \$500 (pre-license)	\$171	Annualized cost assumes inspection and pumping every three years
Well water testing (coliform bacteria and nitrates) ²⁰	\$30 to \$45 (pre-license)	\$15	Annualized cost assumes testing every three years
Lifeguard on duty when a swimming pool is in use	\$0 (if no pool on the premises or	\$200 to \$400	Annualized cost assumes 10 to 20 hours of swim time with a hired lifeguard

¹⁹ Applies only if the licensee has private septic system and the local public health department does not require periodic inspection.

²⁰ Applies only if the licensee has a private single-family well and the local public health department does not require periodic water testing.

	pool not used)		
Chimney inspection²¹	\$50 to \$100	\$50 to \$100	Required annually
On-going training (30 hours every three years after licensure)	\$0	\$0 to 55	Annual costs will vary by type of training and cost - some training is available free
Food handler permit/card – New licensees pre-license; Current licensees by 2012²²	\$10	\$3.33	After the first renewal at two years, the \$10 permit is renewed every three years

Job Loss: Based on how the licensee chooses to meet the requirements of the proposed rules that impose costs, and whether certain conditions exist on the FHCC premises (e.g. private septic system in a county that does not require periodic septic inspection), these costs may impact the licensee's decision to employ paid staff, or the number of hours that the licensee uses paid staff in a given year. At an hourly rate of \$8.40 to \$8.50 per hour, the low end of one-time and ongoing compliance costs may result in the licensee foregoing paying about 60 to 65 hours of staff time per year. At the very high end, compliance costs may result in the licensee foregoing paying an estimated 990 hours of staff time in the first year (approximate one half-time staff person), and an estimated 65 hours per year each year thereafter (about 8.125 full work days). For the very high end, all the rules that create new one-time and ongoing costs would need to apply to the licensee, and the licensee would need to choose all of the highest cost means of complying with the rules. Licensees may choose less costly options to comply with the rules, which would have lower impact on their ability to hire staff.

Job Creation: The rules are not expected to result in significant job creation. Additional part-time staff may be needed to meet staff-to-child ratio requirements on an occasional basis during outings or water-related activities, but these staffing requirements may also be met by using unpaid volunteers.

²¹ Chimney inspection applies only if the licensee has a fireplace or wood-burning heating device, and the licensee plans to use the fireplace or device.

²² The licensee is required to have a food handler permit/card. However, if the licensee is not present, one staff person present must have a food handler permit whenever food is being prepared or served to children in care.